

**Board of Adjustment
MINUTES
June 18th, 2020**

PRESENT: Mark Kaschmitter, Matt Marx, Dan Gottwalt, Jane DeAustin

Staff: Roxanne Achman, Karen Loehrer

- 1) Mark called the meeting to order followed by the Pledge of Allegiance
- 2) Matt moved to approve the agenda. Dan seconded and the motion carried.
- 3) Jane moved to approve the minutes from the May 21st, 2020 meeting. Dan seconded and the motion carried.
- 4) File #20-171, Erik and Jessie Wheeler requesting a variance to construct a dwelling 79ft from the centerline of a county road (125ft required) in the R-3 Residential District. Pursuant to Sections 7.6.6(B)(1)(a) and 11.5. The affected property is described as follows: part of Gov't Lot 1, Section 22, Watab Township. *This item was continued from the May 21st, 2020 meeting.*

Roxanne stated that this request was reviewed at the May 21st meeting. The request is to take down the existing house and construct a new dwelling. The original request was for a 79ft setback from the centerline line. A variance would be needed to place a house anywhere on this lot. The Board asked the applicants to bring back another option that increases the setback to the road. She showed a new site plan submitted by the applicants with the house located 97ft from the centerline.

Jessie Wheeler stated that they moved the garage to the east side of the proposed house and lined it up with the driveway. Erik asked if they could go 95ft so they could keep the large tree. With the location of the septic the house can't be moved to the west. Roxanne stated that the east part of the lot is not buildable because it is too narrow. There was a discussion on allowing a 90ft setback so the applicant has room to move the house location and keep the tree.

No one spoke in favor, opposition or with general comments. Dan moved to close the public hearing. Matt seconded and the motion carried.

In reviewing Section 11.5.1 the vote was as follows

- 1) Mark stated that single family dwellings with attached garages are a permitted use in the R-3, Residential District according to Section 7.6 of the Development Code. The vote was unanimous that the proposed use is not prohibited in the zoning district in which the subject property is located.
- 2) Jane cited Section 2.1.1 (C). Dan added (L). The vote was unanimous that the variance is in harmony with the general purposes and intent of the official controls.
- 3) Mark cited Quality of Life Goal #2. Policy #2: Life Cycle Housing. The vote was unanimous that the variance is consistent with the comprehensive plan.
- 4) a. Dan stated that the use of the property for a single family dwelling is permitted. The property owners have made adjustments to move the house further from the county road. The vote was unanimous that the property owner proposes to use the property in a reasonable manner not permitted by an official control.
 - b. Matt stated that the house was built in 1950 prior to shoreland and zoning regulations. The location of a house is limited to the west due to the septic. The circumstances are unique to the property and the homeowners came upon them after the fact. The vote was unanimous that the plight of the landowner is due to circumstances unique to the property not created by the landowner.
 - c. Mark stated that the surrounding houses will not be affected. Jane added that the use will remain a single family dwelling. The vote was unanimous that the variance will not alter the essential character of the locality.
 - d. Jane stated that the variance is needed from the river and county road. The vote was unanimous that the need for the variance involves more than economic considerations.

Dan moved to include the development conditions to File #20-171. Matt seconded and the motion carried.

Roxanne read the findings, conditions and decision.

Findings.

- 1) The proposed use is not prohibited in the zoning district in which the subject property is located.

Single family dwellings with attached garages are a permitted use in the R-3, Residential District according to Section 7.6 of the Development Code.

- 2) The variance must be in harmony with the general purposes and intent of the official controls. In accordance with:

In accordance with the following items in Section 2.1.1:

(C) To promote the orderly development of residential, business, industrial, recreational and public areas.

(L) To further the appropriate use of land, and conserve and protect the natural resources of the county for present and future generations.

- 3) The variance must be consistent with the comprehensive plan.

Quality of Life

Goal #2

Policy #2. Life Cycle Housing: Promote the improvement and maintenance of the existing housing stock to provide sanitary living conditions and ensure that an adequate amount of housing is maintained, including retrofitting existing homes to better serve families in need of affordable housing.

- 4) The variance may be granted if there are Practical difficulties in complying with the official control:

- a. Property Owner proposes to use the property in a reasonable manner not permitted by an official control.

The use of the property for a single family dwelling is permitted. The property owners made adjustments to bring the home back 90ft from the county road.

- b. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

The property was built upon sometime in the 1950's; prior to shoreland and zoning regulations taking place. The lot is limited to the west due to the septic. The circumstances are unique to the property and the homeowners came upon them after the fact.

- c. The variance, if granted, will not alter the essential character of the locality.

Homes around the area will not be affected. There is nothing else to work with on this site and the home will remain single family.

- d. The need for the variance involves more than economic considerations.

A variance is needed due to the setback from the Mississippi River and River Road NE (CR 55).

Development Conditions for file no. 20-171 are adopted.

Conditions:

1. This variance is approved for the location shown on the plans submitted with this application and is not transferable to other land.
 2. A Land Use (from Benton County) and Building Permit (from Watab Township) shall be obtained prior to any construction and shall be consistent with the plans and specifications submitted with the variance application.
 3. Pursuant to Section 11.5.2 of the Development Code, this variance shall automatically expire, without notice, within one year after the date of approval unless the applicant has substantially proceeded on the work. To proceed substantially means to make visible improvements to the property and to have had applied to the property at least 40% of the people hours which it is reasonably estimated will be necessary for completion of the project. The Board of Adjustment may grant an extension of six months to complete the project if a written request for additional time is filed with the Board of Adjustment prior to the date of expiration of the variance. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.
 4. The applicant shall permit reasonable access for the County to periodically inspect the site at reasonable times and in a reasonable manner to ensure that the permit holder is in compliance with the conditions of approval and all other applicable statues, rules and ordinances.
 5. This variance is granted solely for the residential dwelling. Any other structure placed on the lot must meet the required setbacks.
- 5) Jane moved to accept the findings and decision and grant File #20-171 as amended. Dan seconded and the motion carried. The applicant was given a copy of the findings and decision.
- 6) Dan moved to adjourn at 7:38 p.m. Matt seconded and the motion carried.

Respectfully submitted,

Karen Loehrer
Administrative Secretary